

FORTY-THIRD DAY

WEDNESDAY, APRIL 2, 1997

PROCEEDINGS

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

Dr. Robert Sloan, President, Baylor University, Waco, offered the invocation as follows:

Heavenly Father, we pause to acknowledge and confess Your greatness and Your power. It is You who control the ultimate destinies of people, leaders, nations, and governments.

Remind us this day to do first and always what is right before You. Grant, we pray, wisdom, courage, and charity to all who walk these halls of leadership and service.

O Lord, we ask for Your blessing on Texas and we pray as well, therefore, for Your blessing and watchcare on all those who assemble here and seek to do Your will. Bless their families, spouses, children, and other loved ones, O Lord. Meet their special needs this day and the needs, we pray, of all those whom we carry in our hearts.

O God, we pray that You would bless all the children of Texas so that our legacy and their future will be one of vibrant education, honorable prosperity, meaningful work, and loving families and homes. We pray Your blessing on all those who think, who speak, who work, and who vote this day to the end of these blessings. We pray it in the sacred name. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHORS OF SENATE BILL 98

On motion of Senator Zaffirini and by unanimous consent, Senators Shapiro and Truan will be shown as Co-authors of **SB 98**.

CO-AUTHOR OF SENATE BILL 190

On motion of Senator Zaffirini and by unanimous consent, Senator Shapiro will be shown as Co-author of **SB 190**.

CO-AUTHOR OF SENATE BILL 519

On motion of Senator Bivins and by unanimous consent, Senator Nelson will be shown as Co-author of **SB 519**.

CO-AUTHOR OF SENATE BILL 650

On motion of Senator Luna and by unanimous consent, Senator Shapleigh will be shown as Co-author of **SB 650**.

CO-AUTHOR OF SENATE BILL 827

On motion of Senator Ellis and by unanimous consent, Senator Shapleigh will be shown as Co-author of **SB 827**.

CO-AUTHOR OF SENATE BILL 951

On motion of Senator Ellis and by unanimous consent, Senator Moncrief will be shown as Co-author of **SB 951**.

CO-AUTHOR OF SENATE BILL 972

On motion of Senator Harris and by unanimous consent, Senator Moncrief will be shown as Co-author of **SB 972**.

CO-AUTHOR OF SENATE BILL 1112

On motion of Senator Ellis and by unanimous consent, Senator Gallegos will be shown as Co-author of **SB 1112**.

CO-AUTHOR OF SENATE BILL 1778

On motion of Senator Shapleigh and by unanimous consent, Senator Armbrister will be shown as Co-author of **SB 1778**.

CO-AUTHOR OF SENATE BILL 1779

On motion of Senator Shapleigh and by unanimous consent, Senator Armbrister will be shown as Co-author of **SB 1779**.

CO-AUTHOR OF SENATE BILL 1810

On motion of Senator Barrientos and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 1810**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 12

On motion of Senator Patterson and by unanimous consent, Senator West will be shown as Co-author of **SJR 12**.

CO-AUTHOR OF SENATE RESOLUTION 428

On motion of Senator Moncrief and by unanimous consent, Senator Barrientos will be shown as Co-author of **SR 428**.

PERMISSION TO INTRODUCE BILLS AND RESOLUTION

On motion of Senator Truan and by unanimous consent, Article III, Section 5, of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bills and resolution:

SCR 58, SB 1908, SB 1909, SB 1911, SB 1912, SB 1914, SB 1915

SENATE BILLS AND RESOLUTION ON FIRST READING

The following bills, filed on Friday, March 14, 1997, were introduced, read first time, and referred to the committees indicated:

SB 1586 by Brown

Relating to the scrap tire recycling program; providing criminal and civil penalties; making an appropriation.

To Committee on Natural Resources.

SB 1881 by Barrientos

Relating to the assignment of a rating to the level of impairment of certain employees.

To Committee on Economic Development.

SB 1882 by Barrientos

Relating to determining the level of impairment of certain employees.

To Committee on Economic Development.

SB 1883 by Barrientos

Relating to the time period for determining maximum medical improvement under the workers' compensation law.

To Committee on Economic Development.

SB 1884 by Barrientos

Relating to the time limit for certain employees to dispute a determination of the degree and extent of impairment caused by certain injuries.

To Committee on Economic Development.

SB 1885 by Barrientos

Relating to certain proceedings under the Texas Workers' Compensation Act.

To Committee on Economic Development.

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

SB 1908 by Barrientos

Relating to the repeal of Natural Resources Code, section 40.053 (b).

To Committee on Natural Resources.

SB 1909 by Lindsay

Relating to the creation, administration, powers, duties, operation, and financing of the North Harris County Regional Water Authority; granting the power of eminent domain and the authority to issue bonds; providing a civil penalty.

To Committee on Natural Resources.

SB 1911 by Cain

Relating to inspection of interstate natural gas pipelines within the State of Texas.

To Committee on Natural Resources.

SB 1912 by Cain

Relating to inspection of interstate hazardous liquids pipelines within the State of Texas.

To Committee on Natural Resources.

SB 1914 by Sibley

Relating to the provision of telecommunications services by the General Services Commission.

To Committee on State Affairs.

SB 1915 by Sibley

Relating to the regulation of utilities.

To Committee on State Affairs.

SCR 58 by Ellis

Directing the Texas Department of Housing and Community Affairs to establish an Intergovernmental Task Force on Housing Investment.

To Committee on State Affairs.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read first time and referred to the committees indicated:

- HB 51** to Committee on State Affairs.
- HB 101** to Committee on State Affairs.
- HB 138** to Committee on Finance.
- HB 156** to Committee on Criminal Justice.
- HB 220** to Committee on State Affairs.
- HB 337** to Committee on Intergovernmental Relations.
- HB 344** to Committee on State Affairs.
- HB 438** to Committee on Criminal Justice.
- HB 449** to Committee on State Affairs.
- HB 507** to Committee on Criminal Justice.
- HB 646** to Committee on Jurisprudence.
- HB 670** to Committee on State Affairs.
- HB 717** to Committee on Natural Resources.
- HB 803** to Committee on Intergovernmental Relations.
- HB 906** to Committee on Jurisprudence.
- HB 920** to Committee on State Affairs.
- HB 1050** to Committee on Criminal Justice.
- HB 1150** to Committee on Criminal Justice.
- HB 1235** to Committee on Finance.
- HB 1266** to Committee on Economic Development.
- HB 1422** to Committee on Criminal Justice.
- HB 1492** to Committee on Jurisprudence.
- HCR 11** to Committee on Administration.

CAPITOL PHYSICIAN

The "Doctor for the Day," Dr. Walter Wilkerson of Conroe, was introduced to the Senate by Senator Nixon.

The Senate expressed appreciation and gratitude to Dr. Wilkerson for participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE RESOLUTION 424

Senator Galloway offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing the chamber of commerce members of Montgomery County and the North Harris County Area on the occasion of Montgomery/North Harris County Area Chambers of Commerce Day at the Capitol on April 2, 1997; and

WHEREAS, Created in 1836 and organized in 1837, Harris County is named for John R. Harris, who founded Harrisburg in 1824; with the largest Texas city as its county seat, Harris County has a population of nearly three million; and

WHEREAS, Montgomery County was also organized in 1837; created from Washington County, the county was named for the United States Revolutionary War hero, General Richard Montgomery; its county seat is the attractive, largely residential community of Conroe; and

WHEREAS, The North Harris County area and neighboring Montgomery County are known for their oil and gas production, their agricultural products and timber industry, and their many sources for recreational activities; and

WHEREAS, The counties are blessed with rich soil, towering pines, and woodland lakes; the Sam Houston National Forest in Montgomery County offers beautiful scenery and opportunities for sightseeing, hiking, camping, and boating; and

WHEREAS, The Montgomery/North Harris County Area Chambers of Commerce promote the commercial interests of the counties and stimulate the area's economy; and

WHEREAS, The members of the chambers are resourceful community leaders who are dedicated to protecting the amenities of Montgomery County and North Harris County and to providing insightful guidance for their growth; and

WHEREAS, The members of the Montgomery/North Harris County Area Chambers of Commerce deserve to be proud of the many projects they have initiated and supported on behalf of area citizens and of the invaluable services they provide for the betterment of the counties; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend the members of these chambers of commerce for their many contributions to the counties and extend best wishes to them on Montgomery/North Harris County Area Chambers of Commerce Day at the Capitol; and, be it further

RESOLVED, That copies of this Resolution be prepared for them as an expression of esteem from the Texas Senate.

GALLOWAY
LINDSAY
NIXON

The resolution was read and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Galloway was recognized and introduced to the Senate Karen Hoylman, President, South Montgomery County Chamber of Commerce, The Woodlands, and Connie Bloodworth, President, Community Chamber of Commerce, Porter.

Senator Nixon was recognized and introduced to the Senate Ron Hulse, Chair, Greater Conroe Chamber of Commerce and Anne Sundquist, President, Magnolia Chamber of Commerce.

Senator Lindsay was recognized and introduced to the Senate Mike Byers, President, Humble Area Chamber of Commerce; John Ewing, Chair, Houston Northwest Chamber of Commerce; Patricia Hibner, Cy-Fair Chamber of Commerce; and Bruce Hillegeist, President, Tomball Area Chamber of Commerce.

The Senate welcomed the guests of Senators Galloway, Nixon, and Lindsay.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, April 2, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 175, Declaring April 2, 1997, as Texas Higher Education Day.

HCR 177, Honoring the Texas PTA.

HCR 184, Designating April 1-2, 1997, as Marshall Days at the State Capitol.

HCR 185, Honoring the city of West.

HCR 186, Honoring the Confederate Air Force, Desert Squadron, on the occasion of their fifth annual fly-in.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

SENATE RESOLUTION 423

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas takes great pleasure in saluting the Del Valle Independent School District, whose Adult Education Program was recognized by United States Secretary of Education Richard W. Riley on September 26, 1996, in Washington, D.C.; and

WHEREAS, Twelve programs across the United States received the Secretary's Award for Outstanding Adult Education and Literacy Programs; and

WHEREAS, Austin Community College, which has furnished instructional support to the Del Valle Independent School District Even Start Family Literacy Program, was also recognized at the same event; and

WHEREAS, Renowned as one of the best examples of model practices in family literacy in the state, the Del Valle project has experienced extraordinary success; 13 women have recently completed the General Educational Development degree through this excellent program; and

WHEREAS, Kim Fluker, Elva Hernandez, Rufina Perez, Alicia Lopez, Crystal Knapp, Sarah Gahagan, Tammy Dieckhoff, Laura Gomez, Bertha Gomez, Misia Ovalle, Rosie Ramirez, Ana Lopez, and Yadira Esparza, have succeeded against formidable odds; they are to be heartily congratulated; and

WHEREAS, In the past two and one-half years, 130 families have been served by the Del Valle Independent School District Even Start Program; the goal for the project is to educate parents and children together so families reach the objectives they set for themselves; and

WHEREAS, Components of the program include early childhood education, adult basic and secondary education, parent education, learning English as a second language, computer literacy, workplace and life skills, and community service; and

WHEREAS, Most parents involved in the project wanted to learn to read to their children in English; presently, 100 percent of the students read to their children in English; 93 percent of the students state that they can help their children with their homework, and 93 percent are now able to fill out a job application; and

WHEREAS, The success and triumph of helping individuals accomplish desired objectives is sufficient reward for those involved in Project Even Start; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby congratulate Austin Community College, the Del Valle Independent School District Even Start Family Literacy Program, and the 13 women who have recently worked so hard to obtain their General Educational Development degrees; and, be it further

RESOLVED, That a copy of this Resolution be prepared as an expression of the highest esteem and regard of the Texas Senate.

The resolution was again read.

The resolution was previously adopted on Tuesday, April 1, 1997.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate a delegation from the Del Valle Independent School District's Adult Education Program.

The Senate welcomed its guests.

(Senator Truan in Chair)

SENATE RESOLUTION 428

Senator Moncrief offered the following resolution:

WHEREAS, The Senate of Texas takes pleasure in welcoming the students in the PAL, DARE, and San Antonio Fighting Back programs who are visiting the Capitol from many different Central Texas high schools on Wednesday, April 2, 1997, Texas Prevention Day; and

WHEREAS, Texas Prevention Day is a day set aside by the legislature to acknowledge the paramount importance of prevention programs; and

WHEREAS, Because of the recent rise in substance abuse by teenagers, many public officials feel that the most effective resolution of our drug crisis lies in teaching preventive measures young people can utilize; and

WHEREAS, Several prevention programs with proven success are the sponsoring entities of Texas Prevention Day, and among them are PAL, DARE, and San Antonio Fighting Back; and

WHEREAS, PAL or Peer Assistance Leadership is a school-based prevention program which uses young people as a source of prevention in schools and communities; PALs are carefully chosen and trained and then placed in one-to-one situations with younger, at-risk children to increase their feelings of self-worth and further develop academic skills; evaluations of the effects of the program are most encouraging; and

WHEREAS, A collection of different curricula designed to prevent violence and substance abuse, DARE educates children about the dangers and consequences of decisions they make; DARE increases student self-esteem and resistance skills; and

WHEREAS, A comprehensive crime, violence, and substance abuse prevention program, San Antonio Fighting Back is working toward community development and improvement; funded through the United Way of San Antonio, Bexar County, and the Robert Wood Johnson Foundation, the organization promotes and encourages efforts of neighborhood residents to free themselves, their families, and their communities from drug abuse, crime, and violence; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend the members of PAL, DARE, and San Antonio Fighting Back and welcome these students to the Capitol of Texas; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the esteemed visitors as an expression of the high regard of the Texas Senate.

MONCRIEF
BARRIENTOS
ZAFFIRINI

The resolution was read and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Moncrief was recognized and introduced to the Senate a delegation of students representing the PAL, DARE, and San Antonio Fighting Back programs.

Senator Moncrief also introduced to the Senate a group of students from Texas Christian University.

The Senate welcomed its guests.

(President in Chair)

SENATE CONCURRENT RESOLUTION 61

Senator Ogden offered the following resolution:

WHEREAS, Higher education offers students the opportunity to study a wide range of subjects in their quest for greater knowledge and understanding, and the Texas Legislature is proud to declare April 2, 1997, Texas Higher Education Day; and

WHEREAS, Many issues directly affect the lives of college students, both in and out of the classroom, and it is important to provide a forum where these individuals can express their concerns about the state of higher education in Texas and the nation; and

WHEREAS, The need for continued funding of public institutions of higher education and the necessity for increased financial aid are of paramount importance to the many men and women who choose to follow this worthy path; without these important forms of economic support, higher education may suffer, and this possibility is unacceptable; and

WHEREAS, Financial considerations are just one of the concerns faced by students, and the continuance of their education often depends on a variety of personal and environmental factors; Texas Higher Education Day will allow students to discuss their views with the state's legislators and can help to ensure that higher education opportunities remain available and affordable for all Texans; now, therefore, be it

RESOLVED, That the 75th Legislature of the State of Texas hereby declare April 2, 1997, Texas Higher Education Day and encourage students of higher education to continue in their pursuit of excellence and their quest for knowledge.

The resolution was read.

On motion of Senator Ogden and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate a delegation representing Texas Higher Education.

The Senate welcomed its guests.

(Senator Ratliff in Chair)

SENATE CONCURRENT RESOLUTION 64

Senator Shapiro offered the following resolution:

WHEREAS, The Texas Legislature is proud to honor the volunteer parents and teachers who make up the Texas Congress of Parents and Teachers, better known as Texas PTA, for providing 88 years of outstanding service to children and youth throughout the Lone Star State; and

WHEREAS, Texas PTA is proud to be affiliated with National PTA, which is celebrating 100 years of advocating for children; and

WHEREAS, Children are the first concern of Texas PTA as evident in the work of the volunteers who promote the health, welfare, and safety of children in the home, school, and community, secure adequate laws for the care and protection of children and youth, and develop between educators and the general public such united efforts as will secure for all children and youth the highest advantages in physical, mental, social, and spiritual education; and

WHEREAS, Each year Texas PTA names an "Outstanding Legislator" who also exemplifies the ideals of Texas PTA through his or her legislative actions; and

WHEREAS, During the 21st annual Texas PTA Legislative Conference, the organization named Senator Bill Ratliff Outstanding Legislator; and

WHEREAS, Today, more than 725,000 Texas PTA members work in cooperation with public educators across the state, and their enthusiastic efforts have played a key role in developing innovational and inspirational educational goals that will help prepare Texas youth for leadership roles well into the next millennium; and

WHEREAS, On over 2,600 campuses, Texas PTA can achieve its goals because of the volunteers who provide selfless service, give generously of their time, and use their talents and energies for the betterment of the youth of our state; and

WHEREAS, Throughout its proud history, Texas PTA has worked to improve educational opportunities for all Texas children, and its exemplary programs continue to instill in them the values that have made our state strong and great; now, therefore, be it

RESOLVED, That the 75th Legislature of the State of Texas hereby commend Texas Congress of Parents and Teachers for its faithful service on behalf of the children of our state, extend best wishes to its members for the 88th anniversary celebration and a productive legislative conference, and extend a sincere thank-you for recognizing one of our colleagues for his work for children; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Texas PTA as an expression of high regard from the Legislature of the State of Texas.

The resolution was read.

On motion of Senator Shapiro and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Shapiro was recognized and introduced to the Senate Gayle McAda, President of the Texas PTA, and a delegation of members of the Texas PTA.

The Senate welcomed its guests.

(President in Chair)

HOUSE BILL 338 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 338, Relating to the election of directors of the Franklin County Water District.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 338 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 338** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 338 was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE JOINT RESOLUTION 12 ON SECOND READING

Senator Patterson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

SJR 12, Proposing a constitutional amendment authorizing a voluntary, consensual encumbrance on homestead property for the purpose of an equity loan.

There was objection.

Senator Patterson then moved to suspend the regular order of business and take up **SJR 12** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Duncan, Luna, Madla, Nixon, Ogden, Truan.

SJR 12 was read second time.

(Senator Gallegos in Chair)

(President in Chair)

(Senator Wentworth in Chair)

Senator Patterson offered the following committee amendment to the resolution:

Committee Amendment No. 1

Amend SECTION 1 of **SJR 12** as follows:

(1) At the end of Subdivision (2) of added Subsection (d), Section 50, Article XVI, Texas Constitution strike "or".

(2) At the end of Subdivision (3) of added Subsection (d), Section 50, Article XVI, Texas Constitution strike the period and substitute "; or".

(3) After Subdivision (3) of added Subsection (d), Section 50, Article XVI, Texas Constitution add the following:

"(4) a person contracted to make, originate, or arrange loans qualified for purchase by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation."

The committee amendment was read and was adopted by the following vote: Yeas 25, Nays 6.

Yeas: Ambrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Nixon, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, Whitmire, Zaffirini.

Nays: Barrientos, Luna, Madla, Ogden, Truan, West.

SJR 12 as amended was passed to engrossment by the following vote: Yeas 24, Nays 6, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Luna, Madla, Nixon, Ogden, Truan.

Present-not voting: Fraser.

SENATE JOINT RESOLUTION 12 ON THIRD READING

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 12** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Luna, Madla, Nixon, Ogden, Truan.

SJR 12 was read third time and was passed by the following vote:
Yeas 24, Nays 6, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Luna, Madla, Nixon, Ogden, Truan.

Present-not voting: Fraser.

SENATE BILL 173 ON SECOND READING

Senator Patterson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

SB 173, Relating to a voluntary, consensual encumbrance on homestead property for the purpose of an equity loan.

There was objection.

Senator Patterson then moved to suspend the regular order of business and take up **SB 173** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Luna, Madla, Nixon, Ogden, Truan.

SB 173 was read second time.

Senator Patterson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SECTION 1** of **SB 173** as follows:

(1) At the end of Subdivision (2), Subsection (a) of added Article 5A.04, Revised Statutes, strike "or".

(2) At the end of Subdivision (3), Subsection (a) of added Article 5A.04, Revised Statutes, strike the period and substitute "; or".

(3) After Subdivision (3), Subsection (a) of added Article 5A.04, Revised Statutes, add the following:

"(4) a person contracted to make, originate, or arrange loans qualified for purchase by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation."

The committee amendment was read and was adopted by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson,

Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Luna, Madla, Nixon, Ogden, Truan.

SB 173 as amended was passed to engrossment by the following vote: Yeas 24, Nays 6, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Luna, Madla, Nixon, Ogden, Truan.

Present-not voting: Fraser.

SENATE BILL 173 ON THIRD READING

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 173** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Luna, Madla, Nixon, Ogden, Truan.

SB 173 was read third time and was passed by the following vote: Yeas 24, Nays 6, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Luna, Madla, Nixon, Ogden, Truan.

Present-not voting: Fraser.

(President in Chair)

SENATE BILL 313 ON THIRD READING

Senator Galloway moved that the regular order of business be suspended and that **SB 313** be placed on its third reading and final passage.

SB 313, Relating to the disannexation of certain areas annexed on or after December 1, 1996, by certain municipalities.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Bivins, Brown, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Luna, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West.

Nays: Barrientos, Cain, Ellis, Gallegos, Lucio, Moncrief, Shapleigh, Truan, Whitmire, Zaffirini.

SB 313 was read third time and was passed by the following vote: Yeas 18, Nays 13.

Yeas: Armbrister, Bivins, Brown, Carona, Duncan, Galloway, Harris, Haywood, Lindsay, Madla, Nelson, Nixon, Ogden, Patterson, Shapiro, Sibley, Wentworth, West.

Nays: Barrientos, Cain, Ellis, Fraser, Gallegos, Lucio, Luna, Moncrief, Ratliff, Shapleigh, Truan, Whitmire, Zaffirini.

SENATE JOINT RESOLUTION 19 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration at this time:

SJR 19, Proposing a constitutional amendment relating to the place at which the Supreme Court of Texas sits to transact business.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SJR 19 was read second time and was passed to engrossment by a viva voce vote.

SENATE JOINT RESOLUTION 19 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 19** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SJR 19 was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 414 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 414, Relating to certain advance directives for medical treatment.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 414** as follows:

(1) Following Section 166.003, Health and Safety Code, as added by SECTION 1.02 of the bill (page 2, between lines 31 and 32), insert the following:

Sec. 166.004. STATEMENT RELATING TO ADVANCE DIRECTIVE.

(a) A health care provider shall maintain written policies regarding the implementation of advance directives. The policies must include a clear and precise statement of any procedure the health care provider is unwilling or unable to withhold in accordance with an advance directive.

(b) The health care provider shall provide written notice to an individual of the written policies described by Subsection (a). The notice must be provided at the earlier of:

(1) the time the individual is admitted to receive services from the health care provider; or

(2) the time the health care provider begins providing care to the individual.

(c) If, at the time notice is to be provided under Subsection (b), the individual is incompetent or otherwise incapacitated and unable to receive the notice required by this section, the provider shall provide the required written notice, in the following order of preference, to:

(1) the individual's legal guardian;

(2) the individual's adult child;

(3) the individual's parent;

(4) the person admitting the individual; or

(5) another person responsible for the health care decisions of the individual.

(d) If Subsection (c) applies and except as provided by Subsection (e), if a health care provider is unable, after diligent search, to locate an individual listed by Subsection (c), the health care provider is not required to provide the required notice.

(e) If an individual who was incompetent or otherwise incapacitated and unable to receive the notice required by this section at the time notice was to be provided under Subsection (b) later becomes able to receive the notice, the health care provider shall provide the written notice at the time the individual becomes able to receive the notice.

(f) In this section, health care provider means:

(1) a hospital, including a rural primary care hospital;

(2) an institution licensed under Chapter 242, including skilled nursing facilities;

(3) a home and community support services agency;

(4) a personal care facility; and

(5) a special care facility.

(2) In Article 2 of the bill, following Section 2.01 (page 23, between lines 66 and 67), insert the following:

SECTION 2.02. Subchapter A, Chapter 142, Health and Safety Code, is amended by adding Section 142.0145 to read as follows:

Sec. 142.0145. VIOLATION OF LAW RELATING TO ADVANCE DIRECTIVES. (a) The department shall assess an administrative penalty against a home and community support services agency that violates Section 166.004.

(b) A penalty assessed under this section shall be \$500.

(c) The penalty shall be assessed in accordance with department rules. The rules must provide for notice and an opportunity for a hearing.

SECTION 2.03. Sections 241.059(a) and (c), Health and Safety Code, are amended to read as follows:

(a) The commissioner of health may assess an administrative penalty against a hospital that violates this chapter, a rule adopted pursuant to this chapter, a special license provision, an order or emergency order issued by the commissioner or the commissioner's designee, or another enforcement procedure permitted under this chapter. The commissioner shall assess an administrative penalty against a hospital that violates Section 166.004.

(c) The penalty may not exceed \$1,000 for each violation, except that the penalty for a violation of Section 166.004 shall be \$500. Each day of a continuing violation, other than a violation of Section 166.004, may be considered a separate violation.

SECTION 2.04. Subchapter C, Chapter 242, Health and Safety Code, is amended by adding Section 242.071 to read as follows:

Sec. 242.071. VIOLATION OF LAW RELATING TO ADVANCE DIRECTIVES. The commissioner shall assess an administrative penalty under this subchapter against an institution that violates Section 166.004. Notwithstanding Sections 242.066(b) and (c), a penalty assessed in accordance with this section shall be \$500 and a separate penalty may not be assessed for a separate day of a continuing violation.

SECTION 2.05. Subchapter C, Chapter 247, Health and Safety Code, is amended by adding Section 247.0455 to read as follows:

Sec. 247.0455. VIOLATION OF LAW RELATING TO ADVANCE DIRECTIVES. (a) The department shall assess an administrative penalty against a personal care facility that violates Section 166.004.

(b) A penalty assessed under this section shall be \$500.

(c) The penalty shall be assessed in accordance with department rules. The rules must provide for notice and an opportunity for a hearing.

SECTION 2.06. Subchapter C, Chapter 248, Health and Safety Code, is amended by adding Section 248.0545 to read as follows:

Sec. 248.0545. VIOLATION OF LAW RELATING TO ADVANCE DIRECTIVES. (a) The department shall assess an administrative penalty against a special care facility that violates Section 166.004.

(b) A penalty assessed under this section shall be \$500.

(c) The penalty shall be assessed in accordance with department rules. The rules must provide for notice and an opportunity for a hearing.

The amendment was read and was adopted by a viva voce vote.

CSSB 414 as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 414 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSSB 414 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 414 was read third time and was passed by the following vote:
Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 452 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 452, Relating to the eligibility requirements for the chief administrative law judge of the State Office of Administrative Hearings.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 452 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 452** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 452 was read third time and was passed by the following vote:
Yeas 31, Nays 0.

SENATE BILL 811 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 811, Relating to the use of certain telecommunications facilities of institutions of higher education to assist small business.

The bill was read second time.

(Senator Barrientos in Chair)

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 811** as follows:

(1) on page 1, line 35, add the following sentence: The institution may not charge a rate lower than the average rate charged in the market area at the time services are rendered.

The amendment was read and was adopted by a viva voce vote.

SB 811 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 811 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 811** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 811 was read third time and was passed by a viva voce vote.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 133 ON SECOND READING**

Senator Bivins moved to suspend the regular order of business to take up for consideration at this time:

CSSB 133, Relating to the placement of a student in an alternative education program.

On motion of Senator Bivins and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

SENATE BILL 298 ON SECOND READING

Senator Ratliff asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

SB 298, Relating to juvenile court detention orders.

There was objection.

Senator Ratliff then moved to suspend the regular order of business and take up **SB 298** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Ellis, Luna, Truan.

(President in Chair)

SB 298 was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Truan asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 538 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 538, Relating to eligibility and benefits under public retirement systems for employees of certain municipalities.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 538** by deleting Section 6 and substituting the following:

SECTION 6. (a) A retirement allowance being paid by the retirement system created by Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), who retired before October 1, 1997, or to a beneficiary of such a member of that system, is changed beginning with the payments due at the end of October 1997.

(b) This change is made to reflect the change in the benefit multiplier to 2.6% effective October 1997. The amount of the change for a member or a beneficiary of a member is equal to the percentage multiplied by the retirement allowance otherwise due. The percentage is equal to 13.04%.

The amendment was read and was adopted by a viva voce vote.

CSSB 538 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 538 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 538** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 538 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 453 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 453, Relating to the appeal of certain interlocutory orders.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 453**, Section 51.014, Civil Practice and Remedies Code as follows:

1. Delete Subsection (a)(8) and Subsection (b) and renumber accordingly.

2. Insert the word "or" after the semicolon in Subsection (a)(7)

The amendment was read and was adopted by a viva voce vote.

CSSB 453 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 453 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 453** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 453 was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 607 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 607, Relating to the assignment of certain appellate judges and justices as visiting judges.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 607 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 607** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 607 was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE JOINT RESOLUTION 43 REREFERRED

On motion of Senator Cain and by unanimous consent, **SJR 43** was withdrawn from the Committee on Finance and was rereferred to the Committee on State Affairs.

MEMORIAL RESOLUTION

SR 433 - by Barrientos: In memory of John Phillip Crawford, Sr., of Austin.

CONGRATULATORY RESOLUTIONS

SR 426 - by Madla: Congratulating Charlie Danner of Leakey.

SR 429 - by Cain: Congratulating Joyce and Marland G. Adams of Waxahachie.

SR 430 - by Cain: Congratulating the coaches and players of Italy High School.

SR 431 - by Ellis: Congratulating the George Family Development Center in the Richmond/Rosenberg area.

SR 434 - by Barrientos: Congratulating Omar Uresti of Austin.

SR 435 - by Truan: Congratulating Fidela and Alfonso R. Jimenez of Corpus Christi.

MISCELLANEOUS RESOLUTIONS

SR 425 - by Nelson, Haywood, Sibley: Recognizing April 8, 1997, as Denton County Day at the State Capitol.

SR 427 - by Madla: Designating the month of June, 1997, as Hepatitis Awareness Month.

SR 432 - by Armbrister: Declaring April 16, 1997, as Texas Retired Public School Personnel Day.

ADJOURNMENT

On motion of Senator Truan, the Senate at 1:53 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

April 2, 1997

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **SB 352**
(Amended)

STATE AFFAIRS — **CSSB 512, CSSB 700, CSSB 946, CSSB 1131, SB 1125**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **SB 353**
(Amended)

STATE AFFAIRS — **CSSB 805, SB 977** (Amended)

ADMINISTRATION — **SB 819, SB 996**

NATURAL RESOURCES — **SB 1590**

STATE AFFAIRS — **CSSB 665**

HEALTH AND HUMAN SERVICES — **SB 514, SB 1243, SB 1284, CSSB 359**